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Attorneys for Plaintiff, Musculoskeletal Transplant Foundation

By: Jay S. Becker, Esq.

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

MUSCULOSKELETAL TRANSPLANT

FOUNDATION, a District of

Columbia Non-Profit

Corporation,

Plaintiff,

v.

BACTERIN INTERNATIONAL

HOLDINGS, INC., a Delaware

Corporation, CAREY BAUER, a

Missouri resident, and LAURA

KMET, a Michigan resident.

Defendants.

Civil Action No.

ORDER TO SHOW CAUSE AND
IMPOSING TEMPORARY RESTRAINTS

THIS MATTER being brought before the Court by Giordano, Halleran & Ciesla, P.C., attorneys for Plaintiff, Musculoskeletal Transplant Foundation ("MTF"), Jay S. Becker, Esq., appearing, seeking relief by way of temporary restraints pursuant to Federal Rule of Civil Procedure 65, based upon the facts set forth in the Verified Complaint, Affidavit of Elizabeth Starling, Affidavit of Kimberly Sloan, and Declaration of Jay S. Becker, Esq. and accompanying legal memorandum filed herewith; and notice having been given to Defendants, Bacterin

International Holdings, Inc., Carey Bauer, and Laura Kmet (collectively referred to hereinafter as "Defendants"), and for good cause having been shown;

IT IS ON THIS _____ day of February, 2011;

ORDERED that Defendants appear and show cause before the United States District Court, District of New Jersey at 9 o'clock in the forenoon or as soon thereafter as counsel can be heard, on the _____ day of February 2011, why Judgment should not be entered:

- A. Granting all relief prayed for in Plaintiff's Verified Complaint; and,
- B. Granting such other relief as the Court deems equitable and just.

IT IS FURTHER ORDERED that Defendants appear and show cause why an Order should not be issued:

- A. Preliminarily adjudicating, enjoining and restraining Defendant Carey Bauer from assuming or performing any duties at Defendant Bacterin International Holdings, Inc., including her participation in the marketing or sale of the product, OsteoSponge;
- B. Preliminarily adjudicating, enjoining and restraining Defendant Laura Kmet from assuming or performing any duties at Defendant Bacterin International Holdings, Inc.,

including her participation in the marketing or sale of the product, OsteoSponge; and,

C. Preliminarily adjudicating, enjoining and restraining Defendant Bacterin International Holdings, Inc. from employing Defendant Bauer or Defendant Kmet in any capacity, or from permitting Defendant Bauer or Defendant Kmet to perform any duty at or in connection with Bacterin, including their participation in the marketing or sale of the product OsteoSponge; and,

D. Preliminarily adjudicating, enjoining and restraining Defendants from utilizing or disclosing Plaintiff's confidential, proprietary and protected business and trade secret information, including highly sensitive customer and pricing data.

IT IS FURTHER ORDERED that pending the return date herein:

A. Defendant Carey Bauer is temporarily enjoined and restrained from participating in the marketing and sale of the product, OsteoSponge on behalf of Defendant, Bacterin International Holdings, Inc.;

B. Defendant Laura Kmet is temporarily enjoined and restrained from participating in the marketing and sale of the product, OsteoSponge on behalf of Defendant, Bacterin International Holdings, Inc.; and,

C. Defendant Bacterin International Holdings, Inc., Defendant Carey Bauer and Defendant Laura Kmet are temporarily enjoined and restrained from utilizing, disseminating or otherwise disclosing Plaintiff's confidential, proprietary and protected business and trade secret information, including all customer and pricing data.

, U.S.D.J.

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